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EXAMINER

KYLE, MICHAEL J

ART UNIT

PAPER NUMBER

3676

DATE MAILED: 12/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/802,852

Applicant(s)

PIERMATTEI, DAVID W.

Examiner

Michael J Kyle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-13 and 15-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-13 and 15-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claim 28 is objected to because it is unclear if “fabric” is different than the “desired article”. As best understood by the examiner, applicant is referring to the case where the device extends through a desired article made of fabric, such as a pair of pants or jeans.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 4, 6, 8, 10-11, 13, 16-18, 20-21, 23, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Goele (U.S. Patent No. 3,848,271). Goele discloses a device for attaching one or more items thereto, comprising an extended post (13, 25) having at least one aperture (shown in figure 2, to hold ring 19) running transversely therethrough, the post (13, 25) operatively connected to a shoulder (27) whereby the device is affixed to a desired article (11) having an interior side (left side of figure 2) facing toward an interior volume defined substantially by the desired article, the interior volume adapted for placing one or more body portions or objects therein, and an exterior side (right side of figure 2) facing substantially away from the interior volume, where the shoulder (27) is positioned on the interior side, and the extended post includes at least an outwardly extending portion that extends outwardly from the exterior side. Goele also discloses a first portion (the portion of the bolt 25 that runs through the

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hole 31 of the belt 11), connecting between at least a portion of the shoulder (27) and the outwardly extending portion (13), for providing support to the device on the desired article, wherein a user of the device can reversibly attach different items to the device by inserting for each of the different items an attachment (19) in the aperture provided in the outwardly extending portion. Examiner notes that the limitation claimed in the last 2 lines of claim 1 is a process limitation ("removing") in an article claim, and is therefore given little patentable weight.

4. With respect to claims 4 and 6, Goele discloses the post (13, 25) to have only one aperture therethrough, and that the post and the shoulder are connected to each other at a 90 degree angle.

5. With respect to claim 8, Goele discloses the post and shoulder are integral with each other.

6. With respect to claim 10, Goele discloses a device for attaching one or more items thereto, comprising an extended post (13, 25) having a length and at least one aperture running transversely of the length, a shoulder (27) having first and second surfaces and being fixedly attached to the post (13, 25), wherein the post includes a portion that extends outwardly from at least the first surface and the aperture is on the outwardly extending portion (13) of the post. The examiner considers the surface of shoulder (27) that is in contact with and faces toward the belt (11) to be the first surface and either the surface along the circumference of the shoulder, or the surface on the opposite side of the first surface that faces away from the belt to be the second surface. Goele also discloses a contact portion (the portion of post in the hole 31, and a portion of the first surface of the shoulder) for contacting a desired article (11) thereby supporting the

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device on the desired article, the contact portion including at least part of the first surface for contacting the desired article (11) when the device is supported on the desired article, and wherein the desired article supports the device. The user reversibly attaches different items (15) to the device by inserting a corresponding attachment (19) in the aperture. Goele further discloses that the contact portion includes a portion of the length extending through the desired article wherein the desired article supports the device regardless of an orientation of the desired article about the length. The last 2 lines of both parts (a) and (b) of claim 10 contain a process limitation ("removing") in an article claim. These limitations are given very little patentable weight.

7. With respect to claim 11, Goele discloses the contact portion to include a portion of the length extending through the desired article wherein the article supports the device regardless of an orientation of the desired article about the length.

8. With respect to claim 13, Goele discloses the article to include a belt (11)

9. With respect to claims 16-18, Goele discloses the article (11) to include a flexible portion that is adapted to conform to a user's body, that the article (11) includes at least one extent that is greater than a largest extent of the shoulder (27), and that the first portion includes an extent of the post (13, 25) extending through the desired article such that the device is supported on the desired article independently of an orientation of the extent of the post relative to the desired article.

10. With respect to claims 20-21, Goele discloses that the first portion is used to support the device on the desired article and that the desired article is portable with the user and includes at least a portion which conforms to a part of the user's body contacting the desired article.

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11. With respect to claim 23, Goele discloses the extended post (13, 25) to be rigid with the aperture in a fixed orientation relative the shoulder.

12. With respect to claim 27, Goele discloses no component between the portion of the length and the aperture for providing a clamping pressure on a portion of the desired article.

Goele discloses a stud (13) and a bolt (25) (which comprise the post), but does not disclose these features to create a clamping force.

13. Claims 10, 12, 13, 15, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Dietz (U.S. Patent No. 867,255). Dietz discloses a device for attaching one or more items thereto, comprising an extended post (6, 6a, 6ab) having a length and at least one aperture (to receive ring 5) running transversely of the length, a shoulder (1) having first (4a) and second (1a) surfaces and being operatively connected to the post (6, 6a, 6b), wherein the post includes a portion that extends outwardly from at least the first surface (4a) and the aperture is on the outwardly extending portion (6) of the post. Dietz also discloses a contact portion (portion of sides 3, 1b, and 4a) for contacting the desired article for thereby supporting the device on the desired article, the contact portion including at least part of the first surface (4a) for contacting the desired article when the device is supported on the desired article, and wherein the desired article supports the device. Dietz further discloses the contact portion to include opposing interior sides (3, 1b) to the shoulder (1) such that a portion of the desired article is provided between the portion of the first side (3) and the portion of the second side (1b) for securing the device to the desired article, wherein the first and second sides confront one another (shown in figure 2), and wherein a user can reversibly attach different items to the device by inserting for

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each of the different items a corresponding attachment in the aperture. The last 2 lines of both parts (a) and (b) of claim 10 contain a process limitation ("removing") in an article claim. These limitations are given very little patentable weight.

14. With respect to claim 12, Dietz discloses the contact portion to include at least the portion of the second surface (1a) such that a portion of the desired article is provided between the portion of the first surface (4a) and the portion of the second surface (1a) for securing the device to the desired article, wherein the first and second surfaces confront one another (shown in figure 2). Additionally, removal of the post from the shoulder damages the device because if the post is removed, the device will no longer perform its intended function.

15. With respect to claims 13 and 15, Dietz discloses the desired article to be a section of clothing, such as a garment band or a pocket (page 1, lines 17-19). The examiner interprets all these to be a garment and the garment band to be a belt. Also, Dietz discloses that the desired article may be a pocket (page 1, line 19-20), which is commonly found on jeans, a pair of pants, or overalls.

16. With respect to claim 22, Dietz discloses that the first (4a) and second (1a) surfaces are spaced apart an effective amount for securing the device to a portion of a desired article provided between the first and second surfaces.

17. Claims 1, 4, 8, 23, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Nielson et al (U.S. Patent No. 6,026,515). Nielson et al discloses a device for attaching one or more items thereto, comprising an extended post (20) having at least one aperture (shown in figure 1) running transversely therethrough, the post (20) operatively connected to a shoulder

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(10) whereby the device is affixed to a desired article having an interior side facing toward an interior volume defined substantially by the desired article, the interior volume adapted for placing one or more body portions or objects therein, and an exterior side facing substantially away from the interior volume, where the shoulder (10) is positioned on the interior side (of the button), and the extended post includes at least an outwardly extending portion that extends outwardly from the exterior side. Nielson et al also discloses a first portion (portion of 10 that supports the device on the button, between the right most portion of 10 shown in figure 1, and the post 20), connecting between at least a portion of the shoulder (10) and the outwardly extending portion (20), for providing support to the device on the desired article, wherein a user of the device can reversibly attach different items to the device by inserting for each of the different items an attachment (50) in the aperture provided in the outwardly extending portion. Examiner notes that the limitation claimed in the last 2 lines of claim 1 is a process limitation ("removing") in an article claim, and is therefore given little patentable weight.

18. With respect to claims 4 and 8, Neilson et al discloses the post only has one aperture extending therethrough, and that the post and shoulder are integral with each other.

19. With respect to claim 23, Nielson et al discloses the extended post (20) to be rigid and the aperture is in a fixed orientation relative to the shoulder.

20. With respect to claim 24, Nielson et al discloses the device to be used on a pair of trousers. Examiner considers trousers to include jeans.

Claim Rejections - 35 USC § 103

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21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. Claims 2, 8, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goele in view of Monk (U.S. Patent No. 3,837,190). Goele discloses that the device is secured to the desired article, the desired article being a belt. However, Goele does not disclose a washer that fits over the post. Furthermore, while the examiner considers the assembly to be an integral unit, Monk is cited to further show an integral assembly.

23. Monk teaches a washer (50) that fits over the post to act as a spacer. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Goele as taught by Monk in order to provide more space between the aperture and the shoulder. Monk also teaches the post (18) and the shoulder (12) to be integral with each other, to reduce parts and assembly. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Goele as taught by Monk to reduce parts and assembly.

24. Additionally, the washer (50) of Monk is placed between the desired article (32) and an aperture (38). Examiner notes the desired article (32) exists on both sides of the apertures (38) in Monk. Therefore, because the washer is on the post it is between an aperture and the desired article. The spacer is to ensure proper spacing, and would be used the same when combined with Goele. Furthermore, the washer is not integral with the post. The device can be detached from

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the desired article by removing the washer and attachment from the post. Examiner notes that “removing” is a process limitation in an article claim and is given little patentable weight.

25. Claims 3 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goele in view of Wu (U.S. Patent No. 5,363,680). Goele recites all of the limitations of claim 1 above, but does not disclose the post and the shoulder to be threadedly connected to each other or for the post and shoulder to be connected to each other with a ball and socket connection.

26. Wu teaches a structure for a key chain in which a post (20, 21, 22, 23) is threadedly connected to a shoulder (10) for the purpose of allowing the post to be screwed into a plurality of main bodies. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Goele as taught Wu so that the post may be screwed into a plurality of main bodies. A threaded connection would also provide a stronger connection in Goele.

27. Wu also teaches the use of a ball (231) and socket (201) connection for the purpose of allowing quick and easy removal/assembly of the post (23) from the shoulder (20) (column 2, lines 16-24). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Goele as taught by Wu in order to allow for quick and easy removal/assembly of the post from the shoulder.

28. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goele in view of Budreck (2,975,497). Goele recites all of the limitations from claim 1 above, but does not disclose the aperture to be a double counter sunk hole.

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29. Budreck teaches a key ring holder with a double counter sunk hole (48) for key chain clearance purposes (column 3, lines 64-68). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Goele as taught by Budreck to facilitate easy attachment and detachment of items through the aperture.

30. Claims 15, 19, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goele in view of Brauch (U.S. Patent No. 615,474). Goele recites all of the limitations of claims 1 and 10, but does not disclose the desired article to include one of: jeans, a pair of pants, and an overall.

31. Brauch teaches a pair of suspenders comprising an extended post (k) and a shoulder (i) that extend through an aperture (q) in a pair of pants in order to be quickly and readily attached to and detached from the waistband of a pair of trousers (page 1, lines 16-18). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Goele as taught by Brauch in order to attach the device to a pair of pants. Pants are made from fabric, such that when the device is attached to the desired article, the post extends through an opening in the fabric (Brauch, figure 5)

Response to Arguments

32. Regarding claims 1 and 10, applicant argues that Goele, Deitz, and Nielson et al do not disclose that the device is removed from the desired article by removing the attachment from the aperture. Examiner notes that this is a method or process limitation in an article claim, and is given very little patentable weight.

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33. Regarding claim 8, applicant argues the assertion that the shoulder (27) of Goele is integral with the post. Merriam-Webster's Collegiate Dictionary, Tenth Edition, defines "integral" as "formed as a unit with another part". In this case, the shoulder (27) of Goele is formed as a unit with the bolt (25). Examiner considers the device as a whole to be the unit.

34. Regarding claim 2, applicant argues that providing the washer taught by Monk will not provide more space between the aperture and shoulder of Goele. Applicant also states if the washer is placed over the bolt (25) between the stud (13) and belt, then only the bolt can be considered as the post, and would not meet the limitations of the claim. Examiner respectfully disagrees. Placing a washer over the bolt between the stud and belt will meet the claim limitations. The examiner considers both bolt (25) and stud (13) to comprise the post. The washer will be fit over a portion of the post (25). This does not preclude the examiner from considering the post to be both bolt (25) and stud (13). Additionally, the configuration will affect the spacing between the aperture and the shoulder, as suggested by examiner in the body of the rejection.

Conclusion

35. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

36. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

37. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J Kyle whose telephone number is 703-305-3614. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

38. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on 703-308-3179. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9326.

39. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.

mk



Anthony Knight
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